



Protecting the Public Health

Issuing an Examination Request (§ 32.1-50)

Scope

If a local health director suspects that a person has active tuberculosis disease and could endanger the public health, the local health director may issue an examination request. The examination request advises the person to be examined immediately to ascertain the presence or absence of active TB disease.

The person may choose to have this examination performed by a licensed physician at his/her own expense. Prior approval from the local health director must be secured before this examination takes place. The person also has the option of having the examination performed by the local health director at no cost.

Criteria

Prior to issuing an examination request, the local health director must be able to document that:

- The person has or is suspected of having active TB disease, as defined by the VA TB Control Laws.

Elements of an Examination Request

The examination request must contain the following information:

- The name of the person being issued the examination request.
- The basis on which the local health director believes that the person has or is suspected of having active TB disease, as defined by the VA TB Control Laws.
- The medical and legal consequences of failing to be examined.
- The period of time the request is in effect. This time period may not exceed the minimum necessary to make a medical determination of the person's condition.
- Where, when, and by whom the examination for tuberculosis should be performed.

Process Summary

An examination request may be issued by the local health director, who will:

- 1) Determine if the necessary criteria for an examination request have been met.
- 2) Call the Division of Tuberculosis Control for guidance and to indicate that this process is underway.
- 3) Write an examination request that includes the required information elements. An examination request form letter is available from the internal DTC website at: <http://vdhweb/epi/tb/>
- 4) Determine the most effective means of delivering the request. Possible options include registered or certified mail and delivery by local health department staff or state or local law enforcement officials.

- 5) Follow the reporting guidelines detailed in the next section, **TB Reporting and Planning**. Forms for these reporting procedures are included in the **Appendix**.
Note: The examining physician who does not find evidence for a positive TB diagnosis in a person under an examination request must still report these findings to the local health director; the appropriate form for this report [Negative Diagnosis Form] is included in the **Appendix**.



If a person with suspected or confirmed active TB disease, as defined by the VA TB Control Laws, fails to comply with the examination request, a counseling order and/or an outpatient treatment order may be issued.

Issuing a Counseling Order (§ 32.1-48.02)

Scope

The local health director may issue a counseling order to any person who has active TB disease as defined by the VA TB Control Laws, who is believed to know that he/she is infected with a communicable disease, and who is engaging in at-risk behavior, thus endangering the public health.

Criteria

Prior to issuing a counseling order, the local health director must be able to document that:

- The person has active TB disease, as defined by the VA TB Control Laws.
- The person is engaging in at-risk behavior.

Elements of a Counseling Order

The counseling order must contain the following information:

- The name of the person being issued the counseling order.
- The basis on which the local health director has determined that the person has or is suspected of having active TB disease, as defined by the VA TB Control Laws.
- The basis on which the local health director believes the person is engaging in at-risk behavior – including inability or unwillingness to follow the prescribed course of treatment.
- The medical and legal consequences of failing to comply.
- Where, when, and to whom the person is ordered to report for counseling.

Process Summary

A counseling order may be issued by the local health director, who will:

- 1) Determine if the necessary criteria for a counseling order have been met.
- 2) Call the Division of Tuberculosis Control for guidance and to indicate that this process is underway.
- 3) Write a counseling order that includes the required information elements. A counseling order form letter is available from the internal DTC website at: <http://vdhweb/epi/tb/>
- 4) Determine the most effective means of delivering the order. Possible options include registered or certified mail and delivery by local health department staff or state or local law enforcement officials.



Intensive educational efforts must be initiated as soon as the patient is suspected of having tuberculosis. The patient should be given information about tuberculosis and counseled on expected outcomes of treatment, the benefits and possible adverse effects of the drug regimen, methods of supervision, assessment of response, and infectiousness and infection control. The medication regimen must be explained in simple language and must be supplemented by written instructions. Materials should be appropriate for the culture, language, age, and reading level of the patient.

Issuing an Outpatient Treatment Order (§ 32.1-48.02.C)

Scope

The local health director may issue an outpatient treatment order to any person who has active TB disease as defined by the VA TB Control Laws and who is unable or unwilling to adhere to a prescribed treatment regimen, thereby endangering the public health.

Criteria

Prior to issuing an outpatient treatment order, the local health director must be able to document that:

- The person has active TB disease, as defined by the VA TB Control Laws.
- The person has been counseled about the need to complete treatment and about the medical and legal consequences for failing to adhere to treatment.
- The person has refused or failed to adhere to a prescribed course of treatment.
- Despite counseling efforts, the person is engaging in behavior that places uninfected persons at risk.

Elements of an Outpatient Treatment Order

The outpatient treatment order must contain the following information:

- The name of the person being issued the outpatient treatment order.
- The basis on which the local health director believes that the person has active TB disease – include the name of the examining physician and the date of the examination.
- The basis on which the local health director believes the person is unwilling or unable to adhere to a prescribed course of treatment.
- Documented efforts to counsel the person about the need to complete treatment and about the medical and legal consequences for failing to adhere to treatment.
- The basis on which the local health director believes that, despite counseling, the person is engaging in conduct that unreasonably places uninfected persons at risk of contracting TB.
- The course of action being ordered – including where and when the person is to report for testing and/or treatment, requirements for Directly Observed Therapy, and mandatory compliance with regular evaluations.
- Notice of legal consequences for failure to comply with the outpatient treatment order.

Process Summary

An outpatient treatment order may be issued by the local health director, who will:

- 1) Determine if the necessary criteria for an outpatient treatment order have been met.
 - 2) Call the Division of Tuberculosis Control for guidance and to indicate that this process is underway.
 - 3) Write an outpatient treatment order that includes the required information elements.
- An outpatient treatment order form letter is available from the internal DTC website at: <http://vdhweb/epi/tb/>

- 4) Determine the most effective means of delivering the order. Possible options include registered or certified mail and delivery by local health department staff or state or local law enforcement officials.
- 5) Follow the reporting guidelines detailed in the next section, **TB Reporting and Planning**. Forms for these reporting procedures are included in the **Appendix**.

Issuing an Emergency Detention Order (§ 32.1-48.02)

Scope

If the local health director determines that a person with active TB disease is engaging in at-risk behavior and poses an imminent threat to the health of others, the Commissioner may issue an emergency order to have that person taken into temporary custody—in the least restrictive, willing facility providing protection of the health of others and appropriate treatment—for a period not to exceed forty-eight hours.



The emergency detention order is the most extreme enforcement of the TB Control Laws to protect the public health. When prior measures have been exhausted, the person with active TB disease is considered a threat to the health of others and his/her situation must be handled as an emergency.



Timeframe for custody

If the specified forty-eight-hour period terminates on a Saturday, Sunday or legal holiday, such person may be detained until the next day which is not a Saturday, Sunday, or legal holiday.
(§ 32.1-48.02.D)

Criteria

Prior to issuing an emergency order, the local health director must be able to document that:

- The person has active TB disease, as defined by the VA TB Control Laws.
- The person has been counseled about the need to complete treatment and about the medical and legal consequences for failing to adhere to treatment.
- Despite counseling, the person is engaging in conduct that unreasonably places uninfected persons at risk of contracting TB.
- Medical data demonstrate that the person poses an imminent threat to the health of others.

The local health director must also ensure that one of the following conditions has been met:

- The person has refused or failed to report to the local health department after having been ordered to do so for appropriate outpatient treatment and education (counseling order, outpatient treatment order).
- The person has a documented history of failure to adhere to a prescribed course of treatment.
- The person has indicated that he/she will not comply with the prescribed treatment.

Elements of an Emergency Detention Order

The emergency detention order must contain the following information:

- The name of the person being issued the emergency detention order.
- The basis on which the local health director believes that the person has active TB disease – include the name of the examining physician and the date of the examination.
- The basis on which the local health director believes the person is unwilling or unable to adhere to a prescribed course of treatment.
- Documented efforts to counsel the person about the need to complete treatment and about the medical and legal consequences for failing to adhere to treatment.

- The basis on which the local health director believes that, despite counseling, the person is engaging in conduct that unreasonably places uninfected persons at risk of contracting TB.
- Medical data demonstrating that the person poses an imminent threat to the health of others.

Process Summary

An emergency detention order may be issued by the Commissioner. The Division of TB Control will work closely with the Commissioner to activate an emergency detention order. The local health director also plays an important role in this process.

- 1) The local health director will consult with the Department of TB Control to determine that the criteria for the emergency detention order have been met.
- 2) The Division of TB Control must be contacted immediately.
- 3) The Division of TB Control will work with the Commissioner and the Attorney General to set the process for the emergency detention order into motion.
- 4) The local health director will send to the Division of TB Control all relevant documentation (*e.g.*, clinical information, documented counseling efforts, etc.) to assist the Attorney General in preparing the case.
- 5) In consultation with the local health director and the Attorney General, the Division of TB Control will write the emergency detention order, including necessary information elements. This order will be presented to the Commissioner for his/her signature. An emergency detention order form letter is available from the internal DTC website at: <http://vdhweb/epi/tb/>
- 6) The local health director will secure a place of confinement for the person who is the subject of the emergency detention order.
- 7) The local health director will alert local law enforcement to be prepared for delivering this forthcoming order. See note below regarding custody.
- 8) Any questions or concerns regarding the legal basis for the commissioner's order or its enforcement should be directed promptly to the Office of the Attorney General.
- 9) While the emergency detention order is in effect, the Commissioner will proceed to prepare for the isolation hearing. This process is explained in the next sub-section, **Court-Ordered Isolation.**



State and local law-enforcement officers are authorized to take custody of the subject of such emergency order immediately upon issuance of the emergency order by the Commissioner.
(§ 32.1-48.02.E)



The Commissioner may also issue an emergency detention order for a person with active TB disease upon release from an inpatient treatment facility or a state or local correctional or detention facility. This emergency detention order will be issued if the person with active TB disease indicates an unwillingness to comply with the prescribed treatment plan or exhibits noncompliant behavior.
(§32.1-50.1.D)

Court-Ordered Isolation (§ 32.1-48.04)

Scope

Once an emergency detention order has been issued by the Commissioner, he/she will proceed to prepare for the isolation hearing. The general district court in the county or city in which the person resides will determine during the isolation hearing whether isolation is necessary to protect the public health.

Criteria (§ 32.1-48.04.B)

An isolation order may be issued upon a finding by the court that the following conditions are met:

- The person is infected with a communicable disease.
- The person is engaging in at-risk behavior.
- The person has demonstrated an intentional disregard for the health of the public by engaging in behavior which has placed others at risk for infection.
- There is no other reasonable alternative means of reducing the risk to public health.



Note on Individual Rights

Isolation orders shall not be renewed without affording the person all of the following rights:

- Right to appeal an isolation order to the circuit court in the jurisdiction in which he/she resides – must file within thirty days.
- An appeal of isolation shall be given priority over all other pending matters before the court and shall be heard as soon as possible.
- An order continuing the isolation will only be renewed if the conditions under which an isolation order can be issued are still met at the time the appeal is heard.
- If the person is not represented by counsel, the judge will appoint an attorney-at-law, to be paid a fee of \$150 and necessary expenses, to represent him/her.

(§ 32.1-48.04.D)



Orders for isolation in the person's home or another's residence may be enforced through the use of electronic devices. Orders for isolation may include additional requirements such as participation in counseling or educational programs. The court may, upon finding that the person no longer poses a substantial threat to the health of others, issue an order solely for participation in counseling or educational programs.

(§ 32.1-48.04.C)



The order for confinement is required to provide the least restrictive confinement; provided, however, that such a detention facility may be a jail or prison if no less restrictive confinement is available or suitable.



The isolation hearing must be held within forty-eight hours of the execution of any temporary detention order.

The isolation hearing shall be held within forty-eight hours of the execution of any temporary detention order issued or, if the forty-eight-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the isolation hearing shall be the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

(§ 32.1-48.04.A)



Isolation order will be valid for no more than 120 days.

An isolation order in the person's home or another's residence or an institution or other place shall be valid for no more than 120 days, or for a shorter period of time if the Commissioner or the Commissioner's designee, or the court upon petition, determines that the person no longer poses a substantial threat to the health of others.

(§ 32.1-48.04.C)